EXHIBIT 2

Page 1

1   IN THE UNITED STATES DISTRICT COURT FOR

2   THE EASTERN DISTRICT OF MICHIGAN

3

4   MARK D. CHAPMAN, et al.,   )

)

5   Plaintiffs,)

) Case No.:

6   vs.   ) 2:19-cv-12333-TGB-DRG

)

7   GENERAL MOTORS, L.L.C.,   )

)

8   Defendants,)

      _____)

9

10

11

12   VIDEOTAPED DEPOSITION OF

13   EDWARD M. STOCKTON

14   Remote

                  April 27, 2022

15   7:00 a.m. (MST)

16

17

18

19

20   Prepared by:

       Vicki L. O'Ceallaigh Champion, CR

21   Certificate No. 50534

22

23

24   Prepared for:

25   (Certified copy)

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1   Q. Okay. Yeah. And feel free, you know, to   07:28:33
2 answer any of the questions, if you need to refer to   07:28:35
3 your report, obviously, you can do that. You are   07:28:37
4 saying you have that on your other monitor, right?   07:28:40
5   A. Yes.   07:28:43
6   MR. PRUITT: And -- and, Jerry, you are   07:28:45
7 good? You have everything?   07:28:46
8   MR. PATTERSON: I'm good. Thank you.   07:28:50
9   MR. PRUITT: Okay. All right.   07:28:52
10 BY MR. PRUITT: 07:28:53
11   Q. All right, Mr. Stocktonton. Is Exhibit 1   07:28:53
12 the expert report that you prepared for this case?   07:28:57
13   A. Yes. I sent along supporting materials   07:29:15
14 along with it which I would incorporate into the   07:29:19
15 file, and then there is a conceptually subsumed   07:29:22
16 subpoena meant, but "yes" is generally the answer.   07:29:30
17   Q. When you say it's supporting materials, you   07:29:34
18 mean the tabs that are at the back of your report?   07:29:38
19   A. I also sent underlying data, some   07:29:41
20 intermediate or for perhaps confirmatory work   07:29:47
21 product along with the report.   07:29:52
22   Q. Okay. And are all of those files listed in   07:29:54
23 Tab 24 of Exhibit 1?   07:30:00
24   A. Tab 24 is just reliance material. We also   07:30:05
25 sent along work product from the reliance material   07:30:09

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1 which I would not have listed. Those would have   07:30:14
2 been explicitly contained in that production.   07:30:17
3   Q. You are talking about your worksheets for   07:30:21
4 your calculation, right?   07:30:24
5   A. Yes.   07:30:25
6   Q. Okay. And so let me direct you to   07:30:27
7 Paragraph 3 in your report: Let me know when you   07:30:48
8 are there.   07:30:54
9   A. Okay. I'm there.   07:30:55
10   Q. So this describes what you were asked to   07:31:03
11 opine on; is that right?   07:31:06
12   A. It does, and then I was asked another   07:31:12
13 discrete question regarding allocation of   07:31:17
14 overpayment at point of purchase, but along with   07:31:22
15 that, it does.   07:31:25
16   Q. Okay. Fair enough. It says here in 3(i)   07:31:26
17 that Counsel for Plaintiffs engaged Fontana, which   07:31:29
18 is your firm, "to evaluate and appropriate to form   07:31:38
19 opinions regarding following: Whether reasonable   07:31:42
20 and feasible methods exist to determine typical   07:31:46
21 out-of-pocket expenses for consumers who paid for   07:31:51
22 repairs following catastrophic CP4 failures."   07:31:54
23   Did I read that correctly?   07:32:01
24   A. Yes.   07:32:02
25   Q. Okay. And that's a fair summary of that   07:32:03

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1 aspect of your work?   07:32:04
2   A. Yes.   07:32:05
3   Q. What do you mean by "reasonable and feasible   07:32:06
4 methods?"   07:32:09
5   A. Analytically sound from reliable data that   07:32:15
6 are -- where the data are discernable and available,   07:32:24
7 where there are supportable basis for those methods.   07:32:34
8 Those would be the principles I think -- I would   07:32:39
9 consider to underlie the words "reasonable" and   07:32:42
10 "feasible."   07:32:46
11   Q. Is it sort of like a level of confidence in   07:32:47
12 your conclusions? Is that fair?   07:32:50
13   A. Except the level of confidence sometimes has   07:32:54
14 the reserved meaning in statistics. If you use that   07:32:56
15 in a plain language sense, level of confidence as an   07:33:00
16 analyst or an economist, I think that's a fair   07:33:05
17 term.   07:33:08
18   Q. Well, I guess sort of what I'm asking, is it   07:33:09
19 akin to a level of confidence to a statistician   07:33:12
20 where you can assign it like a percentage or any --   07:33:15
21 is that how you are thinking of those terms?   07:33:18
22   A. No. It's more holistic than -- than simply   07:33:21
23 the -- what could be assigned as a -- as a   07:33:26
24 confidence interval.   07:33:31
25   Q. So like to a layperson? Is that what you   07:33:33

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1 mean?   07:33:36
2   A. I could form -- by way of contrast, I could   07:33:44
3 form a confidence interval. If you gave me a data   07:33:47
4 set and I just had numbers, I could form a   07:33:51
5 confidence interval. Whether or not I understood   07:33:54
6 where the numbers came from what they meant or what   07:33:57
7 their context was.   07:34:00
8   Here I consider it more about the process,   07:34:02
9 understanding data are they the right data, and then   07:34:07
10 again, the reliability of the numbers. So I   07:34:10
11 consider reasonable and feasible to be broader than   07:34:14
12 than simply the -- the notion of a confidence   07:34:20
13 interval.   07:34:26
14   Q. Okay. But could you assign a confidence   07:34:27
15 interval to your conclusions?   07:34:29
16   A. It would be possible to do that. Yes.   07:34:34
17   Q. But you haven't done that?   07:34:37
18   A. I have not done a -- I have not done a   07:34:39
19 confidence interval. That's -- I haven't assigned a   07:34:47
20 confidence interval. That's correct.   07:34:50
21   Q. To any aspect of your report, right?   07:34:52
22   A. No. No. I did extensive confirmatory work   07:34:58
23 about the reliability of the averages that I found,   07:35:03
24 but there is not a formal confidence interval   07:35:07
25 assigned that I -- that I can remember.   07:35:11

5 (Pages 14 - 17)

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1   Q. Did you do anything to determine the   07:35:14
2 statistical uncertainty of any of your estimates in   07:35:17
3 your report?   07:35:20
4   A. Yes.   07:35:23
5   Q. What did you do?   07:35:25
6   A. First of all, excluded outliers, the -- the   07:35:27
7 clearest example of that would be the, I guess, what   07:35:35
8 I would call the narrowing ranges exhibits, which --   07:35:42
9 which reports a variety of average repair costs   07:35:46
10 using 50 percent and then expanding out to all of   07:35:52
11 the data within the interquartile range, and there   07:35:57
12 is essentially no movement on that. So that was --   07:36:00
13 that gave me a high degree of confidence regarding   07:36:07
14 the appropriateness and the lack or the stability of   07:36:10
15 the findings shown in the report.   07:36:16
16   Q. So, I guess, what I'm asking is a little bit   07:36:17
17 different. Did you quantify the statistical   07:36:20
18 uncertainty of any of your estimates in the   07:36:26
19 report?   07:36:29
20   A. I think I answered that with my last   07:36:38
21 question. I showed that that the averages were   07:36:40
22 stable not sensitive to decisions regarding which   07:36:46
23 observations which records to include, which   07:36:55
24 constituents in the data sets.   07:36:57
25   As far as a formal confidence interval, I   07:37:00

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1 did not do that, but as I told you in a prior   07:37:03
2 answer, there is extensive work to -- to test the   07:37:07
3 stability of the findings.   07:37:12
4   Q. Right. But I'm just trying to get at, you   07:37:15
5 know, when you quantify statistical uncertainty, you   07:37:18
6 can express that as a number, right?   07:37:22
7   A. You can form a confidence interval. I think   07:37:30
8 that's what you are asking.   07:37:34
9   Q. And that's expressed as a number?   07:37:35
10   A. It's expressed as a range.   07:37:37
11   Q. And -- yeah. Like it's a numerical range on   07:37:40
12 top of another number, right?   07:37:42
13   A. It would be around another number, but   07:37:44
14 that's generally true.   07:37:47
15   Q. And do you have any of those numerical   07:37:49
16 ranges in your report anywhere for your estimates?   07:37:52
17   A. I don't think so.   07:37:55
18   Q. Could you do that work? Would you be   07:37:59
19 qualified is what -- is what I'm asking?   07:38:02
20   A. Yes. That's not difficult -- that's not a   07:38:04
21 difficult thing to do.   07:38:07
22   Q. Okay. But you haven't done that to date,   07:38:09
23 right?   07:38:11
24   A. I have not.   07:38:12
25   Q. Okay. Looking back at your report,   07:38:13

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1 Paragraph 3, 2, little 2, it says you were engaged   07:38:21
2 to form opinions regarding whether it is possible to   07:38:29
3 estimate aggregate out-of-pocket expenditures by   07:38:33
4 consumers who paid for repairs following   07:38:38
5 catastrophic CP4 failures; is that correct?   07:38:41
6   A. Yes.   07:38:44
7   Q. So you say "possible" here instead of   07:38:44
8 "reasonable" and "feasible," right?   07:38:46
9   A. Yes.   07:38:49
10   Q. Are you making a distinction there?   07:38:50
11   A. No.   07:38:53
12   Q. Do you see that as meaning the same thing?   07:38:57
13 "Reasonable" and "feasible" versus "possible"?   07:39:05
14   A. Yeah. I can -- I can see the written   07:39:20
15 "possible" sounds more inclusive than "reasonable"   07:39:24
16 and "feasible." I don't think of those -- I don't   07:39:28
17 think of the answers that I gave as different.   07:39:31
18   Q. Okay. So when -- I just want to be clear.   07:39:36
19 When you wrote down whether it is "possible," you   07:39:39
20 didn't mean to give it any different meaning than   07:39:42
21 whether it is "reasonable" and "feasible," right?   07:39:45
22   A. I did not mean to.   07:39:48
23   Q. Okay. And do you have any more or less   07:39:49
24 confidence in your aggregate estimate as opposed to   07:39:57
25 your typical estimate?   07:40:00

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1   A. I don't have less -- less confidence. I   07:40:05
2 note that I -- in developing the aggregate   07:40:11
3 estimates, I note that I rely on another expert's   07:40:15
4 work determining the universe of repairs. I'm   07:40:19
5 comfortable with that reliance, but there is a   07:40:24
6 little distinction between those two.   07:40:27
7   Q. What do you mean "a little distinction   07:40:29
8 between those two"?   07:40:31
9   A. I did the work to -- to identify the typical   07:40:33
10 out-of-pocket repair costs, at least one element of   07:40:41
11 turning those typical repair costs into an aggregate   07:40:46
12 calculation, I relied on another expert.   07:40:50
13   Q. Got it. And so what I'm asking is, at the   07:40:54
14 end of the day, you know, you have your typical   07:40:57
15 estimate, you have got your aggregate estimate, do   07:40:59
16 you have any more or less confidence in one as   07:41:01
17 opposed to the other?   07:41:04
18   A. No.   07:41:05
19   Q. Okay. They are perfectly equal in your   07:41:06
20 mind?   07:41:19
21   A. I don't have an affirmative different   07:41:20
22 feeling about confidence in one versus the other.   07:41:22
23 That does not mean that they are perfectly equal,   07:41:25
24 because one is a -- one is based more on reliance so   07:41:28
25 I came about it a different way, but I -- I have --   07:41:32

6 (Pages 18 - 21)

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1 vehicle there, but I don't ever move to Rhode   08:19:51
2 Island. I live in West Virginia, and I have -- I   08:19:55
3 have always lived in West Virginia. Is your model   08:19:58
4 proposing that I be paid $9,087 in damages?   08:20:03
5   A. That depends on what happens with the class   08:20:13
6 definition. There are the tools available to do   08:20:17
7 that, if that's what the Court decides is   08:20:21
8 appropriate, but I'm not -- when you say   08:20:25
9 "proposing," again, that gets beyond what my role   08:20:28
10 is. I think that has to do with eligibility and   08:20:31
11 class certification issues.   08:20:35
12   Q. Okay. So I just -- I just want to   08:20:37
13 understand "yes" or "no," you are not proposing at   08:20:40
14 this stage that the amount of damages a particular   08:20:43
15 person would get is the amount in Tab 9 of your   08:20:47
16 report, correct?   08:20:53
17   A. That's right. I view this report as giving   08:20:55
18 tools, substantiation, explanation of evidence to be 08:20:58
19 applied as -- as appropriate within the context of   08:21:05
20 legal decisions and class certification decisions.   08:21:09
21   Q. And --   08:21:13
22   MR. PATTERSON: Andrew, when you get to a   08:21:16
23 convenient spot, can we take a break.   08:21:18
24   MR. PRUITT: Okay.   08:21:21
25   MR. PATTERSON: Whenever it's convenient for 08:21:23

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1 you.   08:21:25
2   MR. PRUITT: Yeah. Yeah. Let me just make   08:21:25
3 sure I sort of finish my thought here, but then we   08:21:26
4 can probably do it within a few minutes or so, if   08:21:28
5 that's all right.   08:21:30
6   MR. PATTERSON: Sure. No problem.   08:21:31
7 BY MR. PRUITT: 08:21:34
8   Q. So, then, is -- are you saying there is not   08:21:34
9 enough information available to you right now with   08:21:40
10 respect to class certification to be able to propose 08:21:45
11 how much any given person should be -- should   08:21:49
12 receive in damages?   08:21:52
13   MR. PATTERSON: Object to form.   08:21:55
14   A. I don't think I would ever propose how much 08:22:04
15 should be paid to an individual in damages, because 08:22:07
16 once you use the word "damages," you have adopted   08:22:11
17 the formality, which is in the Court's hands.   08:22:13
18 Certainly, if the Court gave principles of the   08:22:19
19 framework with which they wanted to use this   08:22:23
20 information, I could apply that, but I don't know   08:22:26
21 when I would step in and say -- say how these data   08:22:33
22 would interact with eligibility. I don't have the   08:22:41
23 information to do it, but I don't envision doing   08:22:45
24 that unless I'm instructed what the Court's decision 08:22:47
25 is.   08:22:51

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1   08:22:52
2 BY MR. PRUITT: 08:22:52
3   Q. Okay. So does that -- just because we need   08:22:52
4 to know -- we need to have clarity on what your   08:22:59
5 opinion is and what your opinion isn't. You are not 08:23:02
6 proposing an amount to be paid to anyone in terms of 08:23:05
7 legal damages, right?   08:23:09
8   MR. PATTERSON: Object to form.   08:23:11
9   A. That's -- that's right. I think there is a   08:23:12
10 layer of the Court's decisions and class   08:23:16
11 certification definitions in between what I have   08:23:22
12 done and when you would get to that stuff.   08:23:25
13 BY MR. PRUITT: 08:23:28
14   Q. And so then you don't intend to get to that 08:23:28
15 point in the future in terms of proposing a number   08:23:30
16 in terms of damages?   08:23:33
17   A. I'm -- there could be a court instruction   08:23:37
18 where I would apply that. I don't think that -- I   08:23:44
19 don't envision a way that I would be the one who   08:23:49
20 came up with that instruction.   08:23:52
21   MR. PRUITT: Okay. All right. Jerrod, we   08:23:54
22 can do a break now if you want.   08:23:57
23   MR. PATTERSON: Sure.   08:24:01
24   MR. PRUITT: Okay. 5 or 10? What do you   08:24:02
25 think.   08:24:03

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1   MR. PATTERSON: Five for me. Ted?   08:24:04
2   THE WITNESS: Five is fine.   08:24:06
3   MR. PRUITT: Okay. So then let's say -- I   08:24:08
4 have 10:24 -- or 24 past the hour. Maybe we will   08:24:11
5 say 30 past the hour?   08:24:16
6   MR. PATTERSON: Sure.   08:24:21
7   THE WITNESS: Uh-huh.   08:24:22
8   MR. PRUITT: Thanks.   08:24:22
9   THE VIDEOGRAPHER: Going off the record at   08:24:23
10 8:24 a.m.   08:24:25
11   (Recess taken.)   08:24:30
12   THE VIDEOGRAPHER: We are going back on the 08:30:58
13 record at 8:30 a.m.   08:30:59
14 BY MR. PRUITT: 08:31:04
15   Q. Mr. Stockton, did you speak with anyone   08:31:04
16 about your testimony during the break?   08:31:07
17   A. No.   08:31:09
18   Q. Did you speak with anyone at all?   08:31:11
19   A. No.   08:31:13
20   Q. So looking at -- I think we were looking   08:31:18
21 at paragraph 14 in your report where you lay out   08:31:22
22 your aggregate number that you calculated, of   08:31:28
23 $187 million-plus.   08:31:33
24   Are you there?   08:31:41
25   A. Yes.   08:31:54

13 (Pages 46 - 49)

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1   Q.   So the -- your estimate of aggregate costs,   08:31:56
2 is it -- should I understand that to be just your   08:32:02
3 typical cost muliplied by the number of people who   08:32:06
4 paid that? Is that fair?   08:32:10
5   A.   Yes. And just to be clear, and I'm sure you   08:32:11
6 know this, probably get to it later, but I have got   08:32:14
7 two potential credits that one might apply to that,   08:32:17
8 but just to answer your question, separate from   08:32:21
9 those credits, yes. You understand the aggregate   08:32:23
10 cost correctly.   08:32:26
11   Q.   Yeah. At a simple level, that's -- that's   08:32:28
12 what it's referring to, right?   08:32:30
13   A.   Yes.   08:32:32
14   Q.   Is it just that one additional input that   08:32:35
15 you used to calculate the aggregate -- the number   08:32:38
16 of -- the number of people, essentially?   08:32:42
17   MR. PATTERSON: Object to form.   08:32:47
18   A.   At a high level, yes. I mean, you've seen   08:32:50
19 also if it's a calculated state level subtotals,   08:32:54
20 which would be more inputs, but they are the same.   08:32:59
21 They are essentially the same input conceptually.   08:33:04
22 BY MR. PRUITT: 08:33:10
23   Q.   Okay. So then if -- if your typical cost is   08:33:11
24 wrong, then by definition, your aggregate cost is   08:33:15
25 going to be wrong, too, right?   08:33:19

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1   A.   Yes. Well, it's one -- it's the aggregate   08:33:25
2 cost is a function of the typical cost, so if an   08:33:34
3 input needs to change, then the output would need to   08:33:34
4 change.   08:33:41
5   Q.   So, mathematically, that has to be true,   08:33:42
6 right?   08:33:45
7   A.   If it's a dynamic input, yes.   08:33:46
8   Q.   Okay. And if there is also an error in the   08:33:50
9 number of people input, that would be -- that would   08:33:55
10 compound the error in your aggregate estimate; is   08:34:01
11 that fair?   08:34:07
12   A.   Well, the estimate is the obligation of   08:34:08
13 simple mathematics as -- that we have talked about.   08:34:11
14 In terms of compounding the error, I guess if I   08:34:14
15 assume there is an error in the typical cost, and I   08:34:23
16 assume that there is an error in the number of   08:34:26
17 repairs, the error in the number of repairs could   08:34:32
18 be -- could make the difference between the   08:34:36
19 aggregate number and the true number smaller or   08:34:39
20 larger depending on the directions of the errors.   08:34:42
21   Q.   Did you do any calculation like that as part   08:34:44
22 of your work in this case?   08:34:47
23   A.   Assuming my calculations were wrong?   08:34:49
24   Q.   Assuming any errors in your calculations and   08:34:52
25 then trying to quantify how that affects the numbers   08:34:54

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1 you put forward. Yes.   08:35:00
2   A.   I looked -- as I referred you to before, I   08:35:07
3 looks at the stability of the average as -- which is   08:35:09
4 using all the interquartile data versus the, what I   08:35:15
5 will call the analysis records, being the middle   08:35:19
6 50 percent, I calculated the state level data   08:35:20
7 changing, the order of data selection.   08:35:28
8   Also, there was the replacement data set   08:35:50
9 that GM sent, so that changed the number of records.   08:35:53
10 It looked like the typical number did not -- did not   08:35:57
11 change much after with the new data set, so it   08:36:02
12 suggests the model was robust in terms of filtering   08:36:06
13 out the records, which -- which weren't useful. I   08:36:10
14 may have done more, but those are the ones that come   08:36:14
15 to mind.   08:36:17
16   Q.   But what I'm asking is, did you do any   08:36:17
17 calculations in your report where you assumed an   08:36:21
18 error exists in your methods or in your data and   08:36:23
19 then determine how that changed the numbers you   08:36:27
20 report at the end of the day?   08:36:32
21   A.   I didn't assume that I made errors. I   08:36:40
22 wouldn't know what assumption to apply, but it's   08:36:43
23 certainly -- certainly testable. I have tested   08:36:49
24 different assumptions regarding which records go in,   08:36:53
25 which order the state level data should be -- should   08:36:56

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1 be incorporated, so I have tested those.   08:37:02
2   I haven't done a what-if scenario, what if   08:37:05
3 the number is $2,000. I looked at calculations of   08:37:09
4 repair costs under warranty, which is sort of a   08:37:16
5 conceptually low number. I could've done it on a   08:37:20
6 TFP, if I was not going to have anything over the   08:37:23
7 warranty -- TFPs, rather. It wasn't going to add   08:37:26
8 anything over the warranty calculations.   08:37:32
9   I started on the dealer survey and found, as   08:37:34
10 I reported in the report, that there was some   08:37:39
11 conditions that might not have been present, so I   08:37:43
12 considered the possibility of overstating the   08:37:46
13 estimates, drawing from the dealer survey with   08:37:49
14 respect to the independent dealers.   08:37:52
15   I -- I'm not concerned about that. I don't   08:37:56
16 think there is -- that there is going to be anything   08:37:59
17 material there, but I did put in a matrix that shows   08:38:00
18 if, for example, there are lower labor rates that   08:38:04
19 affect some records, I showed how much effect that   08:38:09
20 would be.   08:38:10
21   So it's several layers -- several layers I   08:38:12
22 did tests akin to that, but in terms of picking a   08:38:16
23 number saying, what if it's actually $8,000 or   08:38:20
24 $2,000 or whatever, I didn't apply that, but that   08:38:25
25 would be rightfully discernable based on the way   08:38:27

14 (Pages 50 - 53)

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1 calculations are done already.   08:38:32
2   Q. So it's feasible and possible to do it, but   08:38:33
3 that's justu not something that's in your report   08:38:35
4 currently, right?   08:38:38
5   A. Well, I have tested -- as I have talked   08:38:40
6 about, I have extensively tested stability of the   08:38:43
7 findings. If you wanted to know how the damages   08:38:47
8 would be -- would be different or that the payment   08:38:52
9 amounts, the cost amounts would be different with a   08:38:57
10 different number put in, it's almost   08:39:01
11 self-explanatory. It's A times B, which could be   08:39:04
12 done on the state level, a group of states or at the   08:39:09
13 overall level.   08:39:13
14   Q. Right. So, you know, you have a cost number   08:39:14
15 estimate, at the end of the day, for typical and   08:39:17
16 aggregate, right?   08:39:22
17   A. I had several, but yes.   08:39:24
18   Q. And those, obviously, are based on any   08:39:25
19 number of inputs that you use to do your   08:39:29
20 calculations, right?   08:39:32
21   A. Right.   08:39:33
22   Q. And so I guess what I'm getting at is, you   08:39:34
23 know, did you take any one of those inputs and test   08:39:39
24 the sensitivity of the number you come to at the end   08:39:43
25 of the day, how that would change based on changes   08:39:46

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1 in one or more of those inputs?   08:39:50
2   A. And it sounds like the answer is, you did   08:39:54
3 not do that; is that right?   08:39:56
4   A. No. I did that. I walked you through   08:39:58
5 several ways in which I did that extensively.   08:40:01
6   Q. And your report, the -- you report this   08:40:04
7 sensitivity in terms of a number, how it would   08:40:11
8 affect the final number?   08:40:17
9   A. I don't remember if I excerpted the numbers,   08:40:19
10 but the sensitivity testing is extensively done, and   08:40:23
11 it's -- it's readily discernible if one wanted to   08:40:30
12 apply the numbers to see what the impact would be on   08:40:38
13 aggregate calculations.   08:40:41
14   Q. Right. But I'm just trying to say, you   08:40:44
15 didn't report the impact on the calculations in your   08:40:48
16 report. You are saying that the data is there to do   08:40:51
17 that calculation, but you didn't do that?   08:40:55
18   A. I didn't take that last step, so some of the   08:41:00
19 tabs we've looked at -- let me just call them the   08:41:02
20 range analysis. Will you know what I mean? We can   08:41:06
21 use that as shorthand. So the range analyses, I   08:41:09
22 report how the averages would change with different   08:41:14
23 portions that have been used.   08:41:20
24   So I -- as far as carrying that forward to   08:41:23
25 rerun aggregate calculations with each addition or   08:41:29

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1 each addition of data of constituents of the   08:41:32
2 analysis record, I didn't at each stage carry it out   08:41:39
3 to a final number, but that's -- that's readily   08:41:43
4 apparent from the numbers that I used.   08:41:45
5   In terms of the number of records, that's   08:41:47
6 just multiplication. I calculated what the -- if I   08:41:49
7 changed the order of what records were included in   08:41:58
8 the calculation and started with the state level, I   08:42:02
9 report what each of those would be. That could   08:42:05
10 readily be turned into an aggregate calculation, but   08:42:11
11 I didn't take that last step of rerunning the   08:42:16
12 aggregate exhibits every time, but I have recorded   08:42:21
13 that sensitivity extensively through the report.   08:42:24
14   Q. Okay. Did you report -- well, strike that.   08:42:27
15   Did you do any analysis looking at if more   08:42:31
16 than one of your inputs were wrong at the same time,   08:42:36
17 how those collectively would affect the final number   08:42:41
18 you've come to?   08:42:44
19   A. I don't think I understand that question.   08:42:56
20 I'm sorry. I'm trying to get it.   08:42:57
21   Q. Yeah. So the way I understand, and again,   08:42:59
22 I'm not educated in this, but the way I understand a   08:43:04
23 sensitivity analysis, is you are looking at how I   08:43:08
24 could change one of your inputs, how that might   08:43:12
25 affect your final calculation; is that right?   08:43:15

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1   A. Generally.   08:43:18
2   Q. So what I'm asking is, did you do that, but   08:43:19
3 changing multiple inputs, you know, looking at if   08:43:21
4 there is uncertainty or errors in more than one   08:43:25
5 input you used, how that would collectively affect   08:43:28
6 the final calculation? Did you do that analysis for   08:43:31
7 any inputs?   08:43:36
8   A. Inherently, with the inclusion of a record,   08:43:43
9 you are picking up differences in parts, labor, and   08:43:46
10 possibly the weight of where the repairs occurred.   08:43:59
11 So there are three inputs in play in the range   08:44:02
12 analyses, so that would be -- that would be one   08:44:05
13 example. The order of inclusion of records, I   08:44:12
14 guess, would also implicitly pick up changes,   08:44:15
15 simultaneous changes to parts, labor, and the weight   08:44:20
16 of where the repairs occurred, if that's -- if   08:44:26
17 that's meaningful. So those would be -- those would   08:44:30
18 be examples of taking into account simultaneous   08:44:35
19 factors.   08:44:37
20   Q. And you did calculations of what effect that   08:44:38
21 would have on the final number you produced?   08:44:42
22   A. I think I reported it at the -- at the   08:44:47
23 repair cost level, which would be plugged into   08:44:50
24 the -- multiplied by the -- whatever aggregate   08:44:53
25 number is relevant to the calculation to get the   08:44:58

15 (Pages 54 - 57)

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```
1  don't remember if it was Dr. Edgar or Counsel --        09:27:09
2  if -- that that's -- there was an adjustment for         09:27:11
3  lessees.                                                 09:27:17
4      Q.  Okay.  You -- so then your model is not --       09:27:19
5  you don't purport to calculate damages for anyone        09:27:28
6  whose repairs were covered by warranty; is that          09:27:33
7  correct?                                                 09:27:37
8      A.  As I understand it from Dr. Edgar's tables,      09:27:38
9  the pumps under -- the pumps repaired under warranty     09:27:43
10 are deducted from the total pump sales, and that's       09:27:47
11 the beginning of the calculation for pumps not           09:27:51
12 covered under warranty, so I understand those are        09:27:55
13 removed upstream of the input figure I received.         09:27:58
14     Q.  That's helpful, but what I'm asking is,          09:28:05
15 slightly different.  I'm just asking what are you        09:28:07
16 trying to do or not do, and so you are not trying to     09:28:08
17 calculate damages for anyone whose repair was            09:28:11
18 covered by a warranty, correct?                          09:28:13
19     A.  That's right.                                    09:28:16
20     Q.  And so -- well, if that's the case, why did      09:28:17
21 you look at warranty data in the first place?            09:28:21
22     A.  Warranty data are very useful and supportive     09:28:26
23 in a sense that they provide a floor for what            09:28:32
24 consumers would have paid out of pocket.  It's just      09:28:39
25 generally the case that customer pay repairs are         09:28:42
```

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```
1  more expensive than warranty repairs, but               09:28:45
2  warranty -- warranty data, by their nature, are         09:28:50
3  heavily vetted.  There are adversarial inputs and        09:28:54
4  mutual interests in the development of those files.      09:28:58
5      It is -- they were very useful inputs in            09:29:08
6  studying costs associated with what consumers paid       09:29:12
7  out of pocket, but as I say, the customer pay            09:29:16
8  repairs are more reflective of the conditions under      09:29:21
9  which people would have paid for these repairs out       09:29:24
10 of their own pockets.                                    09:29:28
11     Q.  So then the -- just so I'm understanding,        09:29:30
12 the warranty data you looked at, that's so you can       09:29:32
13 have a benchmark to compare customer pay repairs; is     09:29:36
14 that correct?                                            09:29:51
15     A.  In studying the -- I was attempting to           09:29:52
16 evaluate the problem through multiple data sources,      09:29:56
17 and warranty data are a good source to study this        09:29:59
18 problem.  So the context -- there is a benchmark to      09:30:03
19 compare it to.  It's -- warranty data are --             09:30:07
20 although it's going to be systematically lower than      09:30:13
21 customer pay costs, it's going to give reliable          09:30:18
22 outputs.  It's to enhance the reliability of the         09:30:20
23 study, and a --                                          09:30:23
24     Q.  When you -- yes, sir.  I'm sorry.  Are you       09:30:24
25 done?                                                    09:30:26
```

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```
1      A.  A cross check or benchmark is one of those       09:30:26
2  useful purposes.                                         09:30:29
3      Q.  Okay.  When you come to a typical cost           09:30:31
4  estimate of $9,551 for out-of-pocket costs, you are      09:30:36
5  not relying on warranty data to calculate that; is       09:30:43
6  that correct?                                            09:30:48
7      Warranty data are part of that study for why         09:30:50
8  I considered the $9,500-or-so to be the most             09:30:52
9  representative number, but the warranty data are an      09:30:56
10 input only in the sense that repairs that were           09:31:00
11 coded, recorded on the same day between warranty and     09:31:04
12 customer pay, we excluded those records.  So I did       09:31:08
13 use warranty records to derive that, but the $9,500      09:31:14
14 itself is calculated on the basis of customer pay        09:31:18
15 records alone.                                           09:31:23
16     Q.  Okay.  The -- you are also not -- to be          09:31:26
17 clear, you are not trying to calculate the amount of     09:31:34
18 damages in dollars that anyone may have experienced      09:31:39
19 for what the Plaintiffs say is overpayment for the       09:31:43
20 vehicle; is that correct?                                09:31:47
21     A.  I'm not giving an opinion on overpayment.        09:31:49
22 That's correct.                                          09:31:57
23     Q.  You do offer the opinion that -- you do          09:32:00
24 analyze, I should say, and offer an opinion as to        09:32:08
25 how proportionally overpayment damages should be         09:32:13
```

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```
1  allocated among multiple owners of the same vehicle,     09:32:18
2  right?                                                   09:32:23
3      A.  "Should" is not a word that I would use, but     09:32:26
4  I propose a method to do that and describe how the       09:32:29
5  method would be applied, so I propose a model by         09:32:32
6  which one could allocate overpayment damages.            09:32:38
7      Q.  Okay.  But you are not offering the opinion      09:32:41
8  that the Court should adopt that model to allocate       09:32:44
9  among multiple owners of a vehicle, right?               09:32:48
10     A.  Like similar answers, I think there are          09:32:53
11 things that are in the Court's domain, not mine,         09:32:55
12 with regard to eligibility and class certification,      09:32:58
13 so that's right.  I understand that what I do is a       09:33:04
14 mathematical model, how eligibility is determined.       09:33:09
15 For that to be applied, is beyond the scope of my        09:33:12
16 work.                                                    09:33:15
17     Q.  Were you instructed by the Plaintiffs'           09:33:15
18 lawyers to focus only on out-of-pocket damages,          09:33:19
19 calculating out-of-pocket damages, instead of            09:33:25
20 calculating overpayment damages?                         09:33:28
21     A.  Sorry.  I was sort of waiting for an             09:33:40
22 objection.  Can you give me the question again.  I       09:33:43
23 lost it.  I'm not saying there should have been an       09:33:45
24 objection.                                               09:33:48
25     Q.  No.  Understood.  Understood.                    09:33:49
```

22 (Pages 82 - 85)

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1 mutually exclusive, but in some cases, that would   09:58:49
2 make sense.   09:58:53
3   Q. Okay. Would -- how would you decide whether   09:58:56
4 a class member should fall under the overpayment   09:59:05
5 model or the out-of-pocket repair model?   09:59:11
6   MR. PATTERSON: Object to form.   09:59:17
7   A. I would not. I think that -- I think that's   09:59:17
8 a legal distinction and one that is in the hands of   09:59:24
9 attorneys and the Court.   09:59:31
10 BY MR. PRUITT: 09:59:34
11   Q. Can you explain to me what you mean by it's   09:59:35
12 a legal decision to determine how to calculate   09:59:43
13 damages using these models?   09:59:49
14   A. You didn't ask me about calculating damages.   09:59:53
15 You said who should get which one, which is a   09:59:56
16 question of eligibility for recovery.   10:00:00
17   Q. Uh-huh. Okay. So then maybe that's   10:00:04
18 helpful, so let me reword it a little bit, and then   10:00:10
19 maybe -- because that's what I'm getting at.   10:00:13
20   So how would -- how would you go about   10:00:17
21 deciding whether to calculate damages for a   10:00:22
22 particular class member using either the overpayment   10:00:26
23 model or the out-of-pocket model?   10:00:30
24   MR. PATTERSON: Object to form.   10:00:34
25   A. First of all, I haven't seen the overpayment   10:00:36

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1 model. Calculating overpayment is not a part of my   10:00:40
2 assignment, so it's not -- it's not something I'm   10:00:42
3 doing here or that I have attempted to form an   10:00:46
4 opinion on. The way that I see it, I guess the   10:00:51
5 distinction is -- I give a tool that could be   10:00:54
6 applied, and because of -- because of my job,   10:00:59
7 because of my role here, I have to scrutinize the   10:01:02
8 foundations of that tool, and there is a   10:01:05
9 mathematical and economic application of that. I   10:01:10
10 create numbers.   10:01:13
11   Then there is a second determination of   10:01:14
12 eligibility, which is -- whether it is appropriate   10:01:16
13 to apply a model to any given person, and I see that   10:01:20
14 as a legal distinction, and that's why I don't have   10:01:24
15 an opinion on it.   10:01:27
16 BY MR. PRUITT: 10:01:28
17   Q. Okay. Well, let's -- then let's not think   10:01:29
18 about the overpayment model. Let me ask it a little   10:01:31
19 bit differently.   10:01:35
20   So you built this out-of-pocket model that's   10:01:35
21 designed, as you put it, to be a tool to calculate   10:01:40
22 out-of-pocket repair costs for multiple class   10:01:43
23 members, right?   10:01:48
24   A. It's actually for the class as a whole. It   10:01:50
25 could be applied to class members, but it's -- my   10:01:52

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1 calculations are classwide, just to make that clear.   10:01:57
2   Q. So your model is meant to calculate damages   10:01:59
3 for someone who never paid out of pocket for repair   10:02:03
4 costs?   10:02:07
5   A. No. I didn't say that.   10:02:08
6   Q. Okay. So I'm talking about in terms of the   10:02:13
7 nature of -- the nature of the type of injury that's   10:02:20
8 being alleged, right? You could be a plaintiff that   10:02:24
9 falls into this overpayment class, right, or you   10:02:30
10 could have this -- or you could be -- I think they   10:02:34
11 call it the failure class, but it's essentially   10:02:36
12 out-of-pocket repair costs, right? You can't be   10:02:38
13 both? Do we agree on that?   10:02:42
14   MR. PATTERSON: Object to form.   10:02:54
15   A. I think so, but I don't -- I don't know.   10:03:01
16 BY MR. PRUITT: 10:03:05
17   Q. Okay. You don't know whether your model   10:03:06
18 could or should be used to calculate overpayment   10:03:08
19 damages?   10:03:12
20   MR. PATTERSON: Object to form.   10:03:14
21   A. I didn't intend it to calculate overpayment   10:03:15
22 damages.   10:03:18
23 BY MR. PRUITT: 10:03:20
24   Q. Okay. Did you create your model intending   10:03:21
25 for it to -- to calculate only for individuals who   10:03:25

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1 experienced out-of-pocket repair costs?   10:03:39
2   A. It's capturing that experiential effect.   10:03:46
3   Q. And it's meant to capture that effect,   10:03:49
4 right?   10:03:53
5   A. Yes.   10:03:53
6   Q. Okay. So if we are trying to figure out   10:03:56
7 whether someone had that experiential effect, as you   10:04:01
8 put it, how would you go about that for -- for that   10:04:09
9 plaintiff -- or class member?   10:04:15
10   MR. PATTERSON: Object to form.   10:04:19
11   A. If I understand the question right, I don't   10:04:36
12 think that's something I have an opinion on.   10:04:38
13 BY MR. PRUITT: 10:04:42
14   Q. Well, I'm asking you, so imagine -- let me   10:04:42
15 say it a little bit differently. Imagine the Court   10:04:47
16 adopts these -- both of these models. I'm trying to   10:04:50
17 get at how do you -- how do you figure out which   10:04:55
18 model applies to a particular person and what the   10:04:57
19 process is for going through that to figure out, do   10:05:00
20 they go in the overpayment bucket, or do they go in   10:05:04
21 the out-of-pocket bucket? So do you understand   10:05:06
22 that?   10:05:10
23   MR. PATTERSON: Object to the question.   10:05:13
24   A. Yes. And I'm trying to help, but all I can   10:05:16
25 really do is speak for myself, the model and the   10:05:21

25 (Pages 94 - 97)

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```
 1     Q.  Yeah.  Did you know anything firsthand about        12:54:30
 2  what they were talking about in the testimony you          12:54:33
 3  reviewed?                                      12:54:36
 4     A.  I don't think so.                        12:54:37
 5     Q.  Did you review any testimony by any         12:54:45
 6  plaintiffs in this case?  Deposition testimony?            12:54:47
 7     A.  I don't think so.  If I did, it would have   12:54:49
 8  been on my list of documents.                    12:54:51
 9     Q.  Did you ask the Plaintiffs' Counsel at any   12:54:58
10  time to provide you with records of actual GM           12:55:03
11  repairs associated with CP4 replacements in the            12:55:13
12  class vehicles?                                12:55:17
13     A.  Early on we talked about that, and yes.  I   12:55:19
14  think I -- I think we did talk about that early            12:55:33
15  on.                                        12:55:36
16     Q.  And but, ultimately, what happened?  You    12:55:40
17  didn't get them?                              12:55:43
18     A.  The -- the agreement between the Parties    12:55:45
19  gave a much better standardized format, which was          12:55:50
20  the customer pay file, and the attempts to get             12:55:54
21  records of repairs.  I understand there were two           12:56:05
22  contemplated, one being dealerships, the other being       12:56:08
23  from GM dealerships, which was superseded by               12:56:11
24  agreeement between the parties, and then they --           12:56:17
25  they gave me what they had from the named                  12:56:20
```

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```
 1  plaintiffs.                                    12:56:23
 2     Q.  So back to your report, paragraph 23, you   12:56:25
 3  mentioned the customer pay data set.  That's one of        12:56:57
 4  the data sources you relied on for your work; is           12:57:03
 5  that right?                                    12:57:07
 6     A.  Yes.                                  12:57:07
 7     Q.  And you provide an overview in paragraph 23 12:57:07
 8  of all the data sets that you relied on; is that           12:57:13
 9  fair?                                         12:57:32
10     A.  Yes.                                  12:57:32
11     Q.  Tell me at a high level what the customer   12:57:46
12  pay data set is.                               12:57:50
13     A.  At a high level, it is records responsive to  12:57:52
14  a request for service encounters where customers          12:57:56
15  paid out of pocket for CP4 repairs from GM dealers        12:58:03
16  in approximately 41 states, I think.                12:58:10
17     Q.  In your view, is the customer pay data set   12:58:14
18  the most reliable data set of the ones you looked at       12:58:21
19  for estimating typical out-of-pocket repair costs,         12:58:26
20  as you put it?                                 12:58:32
21     A.  It's the most aligned with what I'm          12:58:35
22  intending to measure.  I don't consider it a more          12:58:37
23  reliable data set, but it's context versus a               12:58:39
24  warranty data set is -- it's closer and in context         12:58:43
25  to what I'm attempting to measure.                12:58:48
```

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```
 1     Q.  Okay.  It's the best source of data that you  12:58:52
 2  had available for what you were trying to do,             12:58:54
 3  right?                                         12:58:57
 4     A.  When you add in that last clause, yes.       12:58:58
 5     Q.  And the $9,551 typical figure that you came  12:59:04
 6  to was a calculation that relied on data from the          12:59:09
 7  customer pay data set; is that correct?            12:59:16
 8     A.  Correct.                               12:59:18
 9     Q.  And by extension, your $187 million estimate  12:59:22
10  also comes from the customer pay data set plus the         12:59:30
11  additional input that you got from Dr. Edgar about         12:59:35
12  the total number; is that right?                   12:59:37
13     A.  Correct.                               12:59:40
14     Q.  If you look at page Tab D2, page 4 -- and,   12:59:41
15  actually, would now be a good time for a quick             12:59:50
16  break?                                         12:59:55
17        MR. PATTERSON:  Yes.  It would.            12:59:56
18        MR. PRUITT:  Do you want to do five?         12:59:57
19        MR. PATTERSON:  Five is fine for me.         12:59:59
20        MR. PRUITT:  Okay.  We can go off the        13:00:02
21  record.                                    13:00:02
22        THE VIDEOGRAPHER:  We are going off the      13:00:05
23  record at 1:00 p.m.                            13:00:06
24           (Recess taken.)                    13:00:09
25        THE VIDEOGRAPHER:  We are going back on the  13:06:02
```

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```
 1  record at 1:06 p.m.                            13:06:03
 2  BY MR. PRUITT:                              13:06:07
 3     Q.  Over the break, did you talk to anybody     13:06:07
 4  about your testimony?                          13:06:09
 5     A.  No.                                   13:06:10
 6     Q.  All right.  Right before we broke, I was    13:06:13
 7  directing you to Tab B2, page 4.  Let me know when        13:06:17
 8  you are there.                                 13:06:22
 9     A.  Okay.  I'm there.                        13:06:23
10     Q.  And we were talking about the customer pay   13:06:24
11  data set.  Do you recall that?                   13:06:29
12     A.  Yes.                                  13:06:31
13     Q.  What you have here, as I understand it, is   13:06:34
14  an extract from the customer pay data set; is that         13:06:38
15  right?                                         13:06:42
16     A.  That's right.                           13:06:42
17     Q.  And, to be clear, customer pay, as you use   13:06:43
18  it, refers to a non-warranty-covered repair; is that       13:06:47
19  correct?                                       13:06:53
20     A.  Yes.                                  13:06:53
21     Q.  And so the customer pay data -- data set    13:06:57
22  does not include information about warranty                13:07:03
23  coverage; is that correct?                       13:07:08
24     A.  Generally -- generally, that's the case.    13:07:25
25  Sometimes there are notes saying we did this part         13:07:32
```

45 (Pages 174 - 177)

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```
 1                        13:14:07
 2 BY MR. PRUITT:                      13:14:07
 3    Q.  It doesn't have a row, for instance, for    13:14:07
 4 diagnostic codes or anything like that, right?    13:14:11
 5    A.  I don't think it does.  I think I mentioned    13:14:23
 6 that.                               13:14:24
 7    Q.  And, of course, the customer pay data set    13:14:27
 8 isn't going to give you any information about how a    13:14:32
 9 vehicle was used or misused by a plaintiff,    13:14:35
10 correct?                            13:14:41
11    A.  It would not.                 13:14:41
12    Q.  And it doesn't tell you anything about    13:14:45
13 whether there was misfueling for a particular    13:14:57
14 vehicle, correct?                   13:15:03
15    A.  The file that I have does not.  That's    13:15:05
16 correct.                            13:15:11
17    Q.  Did you, in calculating your -- in doing    13:15:18
18 your calculations from the customer pay data set,    13:15:25
19 were you instructed to assume that these repairs    13:15:29
20 were because of the Plaintiffs' theory of defective    13:15:38
21 CP4?                                13:15:45
22    A.  Well, first of all, the repair itself that    13:16:18
23 I'm looking for is the kits or the pre-kit    13:16:22
24 equivalent.  I don't know of a reason why that would    13:16:28
25 differ, but I used all the records in the -- at    13:16:33
```

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```
 1 least -- I think it comes in more in terms of the    13:16:38
 2 the aggregate costs.  It could certainly apply if    13:16:42
 3 there there were different aggregate number -- but    13:16:45
 4 again, I assume I'm being asked to calculate    13:16:49
 5 out-of-pocket costs because Plaintiffs are going to    13:16:55
 6 present a liability theory that seeks to recover    13:16:56
 7 them.  I don't remember if that's a specific    13:17:00
 8 instruction.  No.                   13:17:03
 9    Q.  Okay.  So just to be clear, you don't recall    13:17:04
10 being instructed to assume that each of the repairs    13:17:06
11 involving a CP4 kit or pre-kit equivalent reflected    13:17:12
12 a CP4 failure under the Plaintiffs' theory; is that    13:17:19
13 correct?                            13:17:41
14    A.  I don't think I was told to assume that    13:17:42
15 the -- in terms of the amount of the repair out of    13:17:46
16 the customer pay file, that is going for the per    13:17:53
17 unit amount, and that's what I have calculated.    13:17:56
18 There is a fair amount of filtering that gets down    13:18:01
19 to that.  I don't recall that -- that instruction,    13:18:05
20 but I don't know that it would make a difference.    13:18:09
21    Q.  Okay.  So regardless whether or not you were    13:18:16
22 instructed, did you assume, in looking at each    13:18:19
23 record and the customer pay data set, that it    13:18:22
24 reflected a CP4 failure according to the Plaintiffs'    13:18:26
25 theory?                             13:18:30
```

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 1    A.  No.  It's a bit different.  I assume that    13:18:31
 2 the repairs that -- the universe of repairs that I    13:18:35
 3 got was primarily made up and filtered down to from    13:18:38
 4 CP4 failures where there is a kit or pre-kit    13:18:43
 5 equivalent, which is the repair.    13:18:51
 6    Q.  Okay.  But I'm -- what I'm asking is, did    13:18:56
 7 you assume, whether you were told to or not, just    13:18:59
 8 for purposes of doing your analysis and calculating    13:19:03
 9 damages, that each of those CP4 repair kits or    13:19:07
10 repairs was because of the Plaintiffs' theory of    13:19:13
11 what was -- what's wrong with the CP4 pump?    13:19:17
12    A.  No.  I did not.              13:19:35
13    Q.  Well, is that not part of your analysis,    13:19:39
14 then?                               13:19:41
15    A.  No.  We filtered out all kinds of repairs    13:19:43
16 that look like they have -- were were different,    13:19:49
17 that they were different repairs, didn't have causal    13:19:53
18 parts.  So I don't remember the exact number that we    13:19:59
19 filtered out, but it was tens of thousands of    13:20:03
20 records that we filtered out because the repair was    13:20:07
21 not relevant, so I guess --         13:20:10
22    Q.  Yeah.  I'm sorry.  Let me ask it a little    13:20:13
23 bit differently.  The set of data from the customer,    13:20:16
24 the subset of data from the customer pay data set    13:20:21
25 that you ultimately rely on to do your calculations,    13:20:25
```

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```
 1 did you assume that each of those repairs was    13:20:31
 2 because of a CP4 pump failure under the Plaintiffs'    13:20:35
 3 theory of defect?                   13:20:41
 4    A.  Not rigidly.  I assumed that the -- the    13:20:52
 5 repairs that I used were reflective of what would    13:20:57
 6 have needed to be done if it were a repair under the    13:21:01
 7 Plaintiffs' theory.  Sorry.  I got to the same place    13:21:07
 8 in maybe a different way.            13:21:15
 9    Q.  Okay.  But, of course, you didn't actually    13:21:17
10 go in and investigate to verify that in the real    13:21:22
11 world each of these repairs was, in fact, a CP4    13:21:28
12 failure, because of the specific theory that    13:21:34
13 Plaintiffs proposed; is that correct?    13:21:38
14    A.  That's correct.             13:21:41
15    Q.  And you -- likewise, you didn't go out and    13:21:42
16 investigate in any way how many repairs in the    13:21:47
17 customer pay data set were because of factors that    13:21:53
18 were unrelated to a bad pump, whether that's    13:21:58
19 misfueling or contamination or something like that?    13:22:02
20 You didn't do that analysis, correct?    13:22:06
21        MR. PATTERSON:  Object to form.    13:22:10
22    A.  I think you meant to incorporate something    13:22:12
23 you said earlier that we were just talking about the    13:22:14
24 records.  We did a lot of work to get rid of what    13:22:16
25 looked like irrelevant repairs.  Among those I used,    13:22:20
```

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 1 file on the same day, we excluded those from -- from      13:42:56
 2 calculation, so that's one possibility, and those          13:43:01
 3 would be out.                                13:43:05
 4      The other possibility is some of the less      13:43:07
 5 common warranty categories or categories where the      13:43:10
 6 customer doesn't pay, which would include what's         13:43:14
 7 maybe called policy work, and those should be           13:43:17
 8 captured in the warranty file. So we did account         13:43:19
 9 for that in those two ways.                  13:43:22
10   Q. Okay. But setting aside the warranty file,      13:43:25
11 did you, for any of the examples of transactions in      13:43:28
12 the customer pay database that showed zero dollars      13:43:33
13 for cost of repairs, did you investigate whether any      13:43:37
14 of those actually were fixes for free by GM?           13:43:42
15   A. So the thing is, if those are fixes for free      13:43:50
16 by GM, that's going to mean that GM is compensating      13:44:01
17 the dealer, and if GM is compensating the dealer,        13:44:06
18 those are going to be into the warranty file, so         13:44:10
19 what I'm telling you is that the process that we use      13:44:13
20 should -- should identify those records if they          13:44:19
21 occurred.                               13:44:23
22   Q. So, but again, I'm not asking about the         13:44:25
23 process. I just want to know, did you actually take      13:44:27
24 any of these repair records and investigate             13:44:30
25 specifically whether it was a fix for free?           13:44:34
```

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```
 1   A. That assumes that our objective process        13:44:41
 2 didn't do that. We did our objective process, which      13:44:44
 3 would -- which would capture those instances. If        13:44:46
 4 there were other instances not captured by the          13:44:53
 5 process we use, in other words, already being           13:44:56
 6 reflected in the GM data and the customer pay data      13:44:59
 7 on the same day, which we did exclude, we did not go      13:45:03
 8 beyond that to -- and there were not notes that          13:45:08
 9 would advise us of that.                   13:45:12
10   Q. If the zero dollar values that you took out      13:45:16
11 actually were fixes for free, it would be wrong for      13:45:20
12 your calculations to exclude those, correct?           13:45:26
13      MR. PATTERSON: Object to form.             13:45:33
14   A. It may well have been captured in the          13:45:34
15 warranty file. I don't know who is paying for these      13:45:36
16 fixes for free, but if GM is paying for them, the        13:45:40
17 warranty file has categories for -- for other          13:45:45
18 encounters where the dealer is reimbursed and the      13:45:51
19 customer is not the payer, so no. It would not          13:45:57
20 necessarily be wrong.                     13:46:00
21 BY MR. PRUITT:                         13:46:01
22   Q. If -- I just want to be clear. You keep         13:46:01
23 talking about the warranty file. Forget about the       13:46:05
24 warranty file for purposes of my question. If, in       13:46:08
25 the customer pay environment, the amount charged out      13:46:11
```

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```
 1 of pocket to the customer was zero dollars, it would      13:46:15
 2 be an error for you to exclude that from your          13:46:19
 3 calculation of typical out-of-pocket damages,          13:46:24
 4 correct?                              13:46:29
 5      MR. PATTERSON: Object to form.             13:46:31
 6   A. I can't forget about the warranty file,          13:46:33
 7 because if something is zero dollars, it's either        13:46:36
 8 charity from the dealer, or the dealer is being         13:46:41
 9 reimbursed. If the dealer is being reimbursed, then      13:46:44
10 that record is showing up elsewhere. It may be         13:46:48
11 recorded, but it's -- it's captured in another file.      13:46:53
12 It's counted as a warranty encounter, so no. It         13:46:59
13 would not be inappropriate to exclude it. It would      13:47:03
14 be inappropriate to include it in a calculation of      13:47:08
15 the average.                           13:47:12
16 BY MR. PRUITT:                          13:47:12
17   Q. So you would -- in that event, you would        13:47:12
18 stand by removing that data point from the database      13:47:14
19 to do your calculations, if I'm understanding you        13:47:18
20 correctly?                             13:47:21
21   A. Yes. If there is a repair that is in the         13:47:23
22 customer pay data file, and is -- but it is actually      13:47:26
23 paid by GM, and GM reimburses the dealer, then that      13:47:31
24 is not an out-of-pocket repair. And if it's in a        13:47:38
25 warranty file, presumably, it is being picked up in      13:47:45
```

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```
 1 the account of repairs covered under warranty, so       13:47:46
 2 yes. I would -- in that circumstance, I would stand      13:47:50
 3 behind that decision.                     13:47:52
 4   Q. The scenario you just described, did you do      13:47:53
 5 that for a single transaction in your analysis of       13:47:55
 6 the customer pay data set?                  13:48:01
 7   A. We removed transactions that were in both      13:48:05
 8 the warranty file and the customer pay file on the      13:48:08
 9 same day. I don't remember how many there were of      13:48:11
10 those, but I think there were quite a few.           13:48:14
11   Q. Okay. You also removed, as I understand it,      13:48:17
12 negative cost repairs; is that right?             13:48:24
13   A. Yes.                            13:48:26
14   Q. Do you know how many there were?           13:48:28
15   A. I don't.                          13:48:31
16   Q. Do you know one way or another whether any      13:48:33
17 customers actually received credits for repairs at      13:48:38
18 GM dealerships?                        13:48:43
19   A. As far as an encounter leading to a negative      13:49:06
20 repair cost, that doesn't sound very plausible.        13:49:10
21 Whether there was a credit prior to the calculation      13:49:15
22 of the amount that we used, I'm sure there were. I      13:49:19
23 don't remember any specifically.               13:49:28
24   Q. What, if anything, did you do to investigate      13:49:29
25 whether that was possible for any of the repairs in      13:49:32
```

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1 1 and 8 on Tab 4, page 1?   14:05:56
2   A.   One, two, three, four -- yeah, one, two,   14:06:23
3 three, four, five, six to the right class vehicles,   14:06:24
4 the relevant parts on a Class 8 not in the warranty   14:07:13
5 file on the same day, class time period. So one   14:07:19
6 through six are done, and then you get to the blue.   14:07:23
7   Q.   Okay. So then after Steps 1 through 6, what   14:07:28
8 you have remaining would be the red plus green dots;   14:07:34
9 is that right?   14:07:42
10   A.   Yes.   14:07:44
11   Q.   And then, at what step do you get -- do you   14:07:46
12 shrink from the red to the green?   14:07:56
13   A.   That's Number 10.   14:07:59
14   Q.   So once you go through all of it, the data   14:08:01
15 cleansing steps, you end up with just the green   14:08:03
16 strip; is that fair?   14:08:06
17   A.   Yes.   14:08:07
18   Q.   And to come to your damages calculations, at   14:08:09
19 the end of the day, you removed all of the red data   14:08:16
20 points and all of the blue data points; is that   14:08:21
21 correct?   14:08:24
22   A.   Yes. It turns out it doesn't even really   14:08:25
23 give you a different number from removing red, but   14:08:26
24 to get to the unexact number, you would remove red   14:08:29
25 and blue.   14:08:35

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1   Q.   Of all of the red data points and blue data   14:08:45
2 points that you excluded, how many of those were you   14:08:51
3 able to look at the underlying repair records from   14:08:54
4 the GM dealership for that specific transaction?   14:09:01
5   A.   Well, the -- the red -- we exclude it in the   14:09:03
6 final numbers, but we also run the numbers with the   14:09:03
7 red, and they don't change. So, as far as the blue,   14:09:03
8 we don't have the raw data, but you can see that   14:09:03
9 the -- in -- in some of these, like cause part   14:09:03
10 number, et cetera, we are getting those from the GM   14:09:03
11 records, but we don't have -- I don't think we have   14:09:40
12 any raw records.   14:09:43
13   Q.   For the red or the blue, right?   14:09:43
14   A.   I don't think -- that's right.   14:09:43
15   Q.   So we talked about variabilty that is not a   14:10:20
16 uniform price that's paid for CP4 repairs, right?   14:10:20
17   A.   It's not uniform. That's correct.   14:10:20
18   Q.   Looking at Tab 6, page 1 of your report, how   14:10:20
19 much variability do you see in the data?   14:10:25
20   A.   For a -- I don't really know how to answer   14:10:32
21 that, but for my purposes, whether there is a   14:10:37
22 typical cost and whether that typical cost is stable   14:10:40
23 with respect to which records I include in the data,   14:12:01
24 there's almost none.   14:12:01
25   In terms of whether individual records can   14:12:01

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1 be different from each other, there is a fair amount   14:12:01
2 of variability, which you would expect, but the   14:12:01
3 relevant variability is the sensitivity or the   14:12:01
4 stability of the average of the measures of central   14:12:01
5 tendency on a classwide basis, and that's extrememly   14:12:01
6 stable.   14:12:01
7   Q.   And is there a way to -- in looking at,   14:12:01
8 let's say, the red and the green together, is there   14:12:01
9 a way to quantify the variability and the data   14:12:01
10 points that are reflected on this chart?   14:12:01
11   A.   In terms of the variability that is relevant   14:12:01
12 to what I'm doing, I haven't done that, and that's   14:12:01
13 in my report.   14:12:02
14   Q.   Okay. Not -- I'm not sure what variability   14:12:03
15 is relevant, I'm saying just looking at the data,   14:12:10
16 if -- if you had to quantify how much variability   14:12:13
17 existed whenever you look at all the red and green   14:12:17
18 dots, is there a way to do that?   14:12:21
19   A.   I don't know why -- I don't know why I   14:12:29
20 would. It's -- what's interesting is the impact of   14:12:32
21 the variability within the red and green dots, and   14:12:38
22 there essentially isn't any impact of the   14:12:43
23 variability of the red and green dots. So that's   14:12:46
24 what's -- that's what's relevant to my findings. So   14:12:49
25 I have done the analysis of variability, and that   14:12:54

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1 does take into account all of the red and green   14:13:00
2 dots.   14:13:04
3   Q.   When you say you have done the analysis of   14:13:05
4 variability, you quantify the variability that   14:13:08
5 includes green and red?   14:13:10
6   A.   Yes.   14:13:12
7   Q.   Where is that in your report?   14:13:13
8   A.   That's the -- that's the range analysis and   14:13:15
9 then, also, the one that changes the order of the --   14:13:21
10 of this data, how I calculate the state averages.   14:13:25
11   Q.   Okay. Can you point me to both of those.   14:13:29
12   A.   10-1, I think, is the first one you are   14:14:21
13 interested in.   14:14:24
14   Q.   Okay. Is it your opinion that 10-1   14:14:24
15 illustrates the variability in the data that is on   14:14:24
16 Tab 6, page 1, the red and blue -- the reg and green   14:14:24
17 dots?   14:14:24
18   A.   It illustrates the impact of variability,   14:14:24
19 which is what is relevant. Yes. Yes. I think it   14:14:24
20 does reflect the variability, but more importantly   14:14:24
21 the impact.   14:14:24
22   Q.   And what's the other one that you pointed me   14:14:24
23 to?   14:14:26
24   A.   This is the Tab 20.   14:14:43
25   Q.   Uh-huh. This changes the order of the way   14:14:45

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1 STATE OF ARIZONA   )
) ss
2 COUNTY OF MARICOPA   )
3   BE IT KNOWN that the foregoing deposition
4 was taken by me, VICKI L. O'CEALLAIGH CHAMPION, CR
5 No. 50534, a Certified Reporter for the State of
6 Arizona; that prior to being examined, the witness
7 named was duly sworn to testify to the whole truth;
8 that the questions propounded and the answers of the
9 witness thereto were taken down by me and thereafter
10 reduced to computerized transcription under my
11 direction and supervision; that the foregoing is a
12 true and correct transcript of all proceedings had
13 upon the taking of said deposition, all done to the
14 best of my skill and ability.
15   I further certify that I am in no way
16 related to any party to said action nor in any way
17 interested in the outcome thereof.
18   I CERTIFY that I have complied with the
19 ethical obligations set forth in ACJA 7-206(F)(3)
20 and ACJA 7-206 J(1)(g)(1) and (2).
21   DATED at Phoenix, Arizona, this 29th day of
22 April, 2022.
23

24 _____
          VICKI L. O'CEALLAIGH CHAMPION
25   CR No. 50534

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